

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

-against-

BERNARD L. MADOFF SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

-against-

EQUITY TRADING PORTFOLIO LIMITED,

Defendant.

Adv. Pro. No. 10-04457 (BRL)

**AFFIDAVIT OF NEIL A. STEINER IN SUPPORT OF DECHERT LLP'S
MOTION FOR LEAVE TO WITHDRAW AS COUNSEL
FOR DEFENDANT EQUITY TRADING PORTFOLIO LIMITED**

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

Neil A. Steiner, being duly sworn, deposes and says:

1. I am an attorney admitted to practice in the State of New York and before this Court. I am a member of the law firm Dechert LLP ("**Dechert**" or "**Firm**"), counsel to Defendant Equity Trading Portfolio Limited ("**Equity Trading**") in the above-captioned matter.

I respectfully submit this affidavit in support of Dechert's Motion to Withdraw as Counsel to Equity Trading. No prior application has been made for the relief sought herein.

2. Unless otherwise indicated, I am fully familiar with the facts and circumstances set forth herein. This Affidavit is based upon my and my Firm's personal knowledge, and my review of relevant documents.

3. This litigation arises from the massive Ponzi scheme perpetrated by Bernard L. Madoff ("**Madoff**") and his firm, Bernard L. Madoff Investment Securities LLC ("**BLMIS**"). Just before the two-year anniversary of Madoff's confession and the filing of the SIPA liquidation of BLMIS, the Madoff SIPC Trustee, Irving Picard (the "**Trustee**"), commenced this adversary proceeding seeking to avoid and recover fraudulent transfers allegedly received by Equity Trading from BLMIS in the six-year period leading up to the filing of the SIPC proceeding.

4. Equity Trading's Offering Memorandum, a copy of which is annexed hereto as Exhibit A, disclosed that it would invest exclusively in a managed account with BLMIS.

5. The Trustee's original Complaint (Dkt. 2) named as defendants Equity Trading, Equity Trading Fund Ltd. ("**ETF**"), and BNP Paribas Arbitrage, SNC ("**BNP Arbitrage**").

6. Equity Trading's account history annexed as Exhibit B to the Complaint reflected that Equity Trading's account with BLMIS was opened in December 2005; that Equity Trading deposited more than \$273 million into the account between December 2005 and August 2008; that aside from tax withholding on the fictitious profits paid to the Internal Revenue Service on Equity Trading's behalf, Equity Trading's only withdrawal from its BLMIS account was a single \$15 million withdrawal in November 2008; and that Equity Trading had "net equity" in the account of nearly \$257 million at the time of Madoff's confession.

7. The Complaint acknowledged that Equity Trading paid the entirety of the single \$15 million withdrawal from its BLMIS account to BNP within days of receiving the funds.

8. Equity Trading did not submit a proof of claim in the SIPC proceeding and has not received any distributions from the Madoff Trustee on its net equity loss.

9. The Complaint alleged ten claims for relief seeking recovery of the \$15 million withdrawal as well as the tax withholding as alleged preference payments and fraudulent transfers.

10. In July and August 2022, the Trustee voluntarily dismissed its claims against ETF and BNP in their entirety and dismissed all of its claims against Equity Trading other than its Second Claim for Relief to avoid and recover alleged two-year fraudulent transfers. (Dkt. 137, 138, 140.)

11. Equity Trading answered the Complaint on September 30, 2022. (Dkt. 143.) On April 19, 2023, the Court entered a Case Management Plan (Dkt. 144), which sets a fact discovery cut-off of April 30, 2024 and provides that the parties will confer as to a schedule for expert discovery and trial at a later date.

12. On July 10, 2023, the Trustee served its First Set of Requests for Production and First Set of Interrogatories.

13. Equity Trading is essentially defunct since all of its assets were invested in its account with BLMIS and lost in Madoff's Ponzi scheme. Aside from a small number of documents in counsel's possession, neither Equity Trading nor former investment manager, Essex Asset Management, has or has access to documents or to employees or representatives who could assist counsel in preparing a defense or testify with first-hand knowledge of relevant facts.

14. Dechert has received total payments of less than \$67,000 in fees and costs in connection with its representation of Equity Trading in this matter, and less than \$2,500 of that amount has been received since January 1, 2016. The most recent payment – of \$437.50 – was received more than five years ago, in May 2018.

15. We thus seek entry of an order permitting our withdrawal as counsel for Equity Trading Portfolio Limited.



Neil A. Steiner

Sworn before me this 1ST
day of November, 2023.


Notary Public